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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOHN A. JOSEPHSON, et al.,

2:10-CV-336 JCM (PAL)

Plaintiffs,

v.

EMC MORTGAGE CORPORATION,
et al.,

Defendants.

ORDER

Presently before the court is the matter of *Josephson et al v. EMC Mortgage Corporation et al.* (Case No. 2:10-cv-00336-JCM-PAL).

Federal Rule of Civil Procedure 4(m) provides: “If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice.”

Plaintiffs John A. Josephson and Rita S. Josephson filed their complaint in the Eighth Judicial District Court, in Clark County, Nevada, on October 21, 2009, against defendants EMC Mortgage Corporation (hereinafter “EMC”), National Default Servicing Corporation (hereinafter “National Default”), Mortgage Electronic Registration System, Inc. (hereinafter “Mortgage Electronic”), and First Horizon Home Loan Corporation (hereinafter “First Horizon”). The case was removed to this court by defendant First Horizon on March 10, 2010 (doc. # 1), and defendants EMC and Mortgage Electronic filed a consent to the removal (doc. #4) on March 18, 2010.

Pursuant to Federal Rule of Civil Procedure 4(m), on April 7, 2010, the clerk of the court

1 provided notice to the plaintiffs that the action would be dismissed as to defendant National Default,
2 if they did not file proof of service of process by May 7, 2010. (Doc. # 8). Local Rule 5-1(a) states,
3 with regards to proof of service, that "the proof shall show the day and manner of service and the
4 name of the person served," and that "proof of service may be by written acknowledgment of service
5 or certificate of the person who made service."

6 To date, the court has only received a notice of compliance by the plaintiffs (doc. #14), which
7 included an attached statement of former counsel (doc. #14-1). The statement merely alleges that
8 "the document...is in the state court file," and does not comply with the local rule. Therefore,
9 plaintiffs have failed to file proof of service with the court as to defendant National Default.

10 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the case as to defendant
11 National Default Registration System, Inc., be, and the same hereby is, DISMISSED without
12 prejudice.

13 DATED September 15, 2010.

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16 UNITED STATES DISTRICT JUDGE
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